

**June 15, 2007**

**2007 Legislative Amendments to the Indiana Code Relating to Budget Service Companies**

**Effective July 1, 2007**

**Questions, Answers, and Administrative Interpretations**

- 1. Do the provisions of the Indiana Budget Service Companies Law apply to out-of-state or Internet budget service companies who solicit their services with Indiana residents?**

Answer – Yes, the territorial application section of the Indiana Budget Service Companies Law has been amended to require budget service companies to comply with Indiana law if they solicit their services and products from Indiana residents. A solicitation to an Indiana resident can occur by any means including by mail, brochure, telephone, print, radio, television, the Internet, or other electronic means. If such solicitations occur, the out-of-state or Internet budget service companies must obtain a license to operate their budget service companies in Indiana. [IC 28-1-29-3]

- 2. Have the grounds for revocation or suspension of a license to operate a budget service company changed?**

Answer – Yes, the law has been clarified and expanded to state that a budget service company license may be revoked or suspended for an indictment, conviction or please guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction. [IC 28-1-29-4]

- 3. What changes have been made in the information required on an application for a budget service company?**

Answer – In addition to the information previously required, the application for a budget service company license will require the applicant to disclose if the applicant or any of its executive officers, key shareholders and other owners, directors or other individuals who exercise supervisory responsibility are under indictment for a felony involving fraud, deceit, or misrepresentation in Indiana or any other jurisdiction or if they have been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation in Indiana or any other jurisdiction. [IC 28-1-29-5]

**4. What information relating to a licensed budget service company must be disclosed periodically to the DFI?**

Answer – A licensed budget service company shall notify the DFI on the earlier of its renewal date or within 30 days of occurrence if the budget service company or any of its executive officers, key shareholders and other owners, directors or other individuals who exercise supervisory responsibility are under indictment for or have been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under Indiana or any other jurisdiction's laws. [IC 28-1-29-7.5]

**5. Under what circumstances can other products and services be sold at a budget service company's place of business? What if the budget service company does not have a location in Indiana?**

Answer – A licensee may provide budget services in the same place of business in which another business is operating, or from which other products or services are sold, if the director issues a written determination that the operation of the other business or the sale of other products and services from the location in question is not contrary to the best interests of the licensee's contract debtors. A licensee without a physical location in Indiana may solicit sales of and sell additional products and services to Indiana residents if the director issues a written determination that the proposed solicitation or sale is not contrary to the best interests of contract debtors. [IC 28-1-29-8]

**6. What is required of a budget service company upon completion or termination of its contract?**

Answer – Upon the completion or termination of a contract between a licensee and a contract debtor, the licensee is required to mail to the contract debtor a statement indicating that the licensee no longer holds funds in trust for the contract debtor and listing the name and address of each creditor paid in full and any creditors remaining unpaid. [IC 28-1-29-9]

**7. What changes have been made to the exclusions from the budget service company act?**

Answer – In addition to the exclusions provided attorneys, trust companies, building and loan associations, licensed lending institutions, court appointed receivers and trustees in bankruptcy, the provisions have been amended to exclude from the budget service company act any not-for-profit corporation providing the services of a budget service company which does not charge the debtor any fee for such services, other than bona fide and reasonable fees that are incurred and documented by the person in the course of providing the services, such as fees for postage or fees paid to a third party. [IC 28-1-29-12]